

REMARKS

Applicants thank the Examiner for total consideration given the present application. Claims 1-18 were pending prior to the Office Action. Claims 2, 8, and 14 have been canceled and claims 1, 3, 4, 7, 9, 10, 13, 15, and 16 have been amended through this Reply. Therefore, claims 1, 3-7, 9-13, and 15-18 are pending. Claims 1, 3-5, 7, 9-11 13, and 15-17 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 5, 6, 11, 12, 17, and 18 are indicated to be allowable. Applicants further appreciate that claims 3, 4, 9, 10, 15, and 16 are indicated to define allowable subject matter. Claims 3, 4, 9, 10, 15, and 16 have been amended to independent claims including features from claims 1, 7, and 13. Claims 3, 4, 9, 10, 15, and 16 are in condition for allowance.

35 U.S.C. § 102 REJECTION – SPAULDING et al. (US 5,805,213)

Claims 1, 7, and 13 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by SPAULDING et al. (USPN 5,805,213) (hereinafter “SPAULDING”). Applicants respectfully traverse this rejection.

The amended Claims 1, 7, and 13 now recite features from claims 2, 8, and 14, respectively, thus, rendering the rejection under 35 U.S.C. § 102(b) moot.

35 U.S.C. § 103 REJECTION – SPAULDING IN VIEW OF OKU et al. (US 5,489,996)

Claims 2, 8, and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over SPAULDING in view of OKU et al (USPN 5,489,996) (hereinafter “OKU”). Applicants respectfully traverse.

For a § 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P.* 2142. One requirement to establish *prima facie case* of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P.* 2142; *M.P.E.P.* 706.02(j). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, SPAULDING fails to teach or suggest each and every claimed element. For example, amended independent claim 1 recites, “*the step of generating the three-dimensional look-up table is a step of generating the three-dimensional look-up table for a model of the digital camera.*” SPAULDING does not teach or suggest including the above feature.

The Office Action admits this failing of SPAULDING and relies upon OKU. OKU teaches using three-dimensional look-up table (3DLUT) for color correction (Col. 2, lines 37-63). More specifically, OKU discloses color correction in detail in Col. 4, lines 24-47:

The first color correction unit includes adjusting means and adjustment information entering means by which various color adjustments are carried out according to the image signal source. The color adjustments may be the adjustments of optical density, contrast, color balance, hue, saturation and the like. The normalized signals are applied to the second color correction unit for color correction purposes. In the second color correction unit, a nonlinear mapping is executed using a three dimensional look-up table, thereby to match the normalized image signals to the characteristics of the coloring materials of the image recording medium. The output data signals of the second color correction unit are applied to the third color correction unit. The third color correction unit

corrects variations of the recording media and the apparatus, that is, executes the calibration. The third color correction unit is provided with adjusting means and adjustment information entering means, and receives adjustment information for compensating for the variations.

OKU uses 3DLUT to match the normalized image signals to the characteristics of the coloring materials of the image recording medium, i.e. output image correction process. However, OKU does not teach or suggest that the 3DLUT is a model of the digital camera as recited in claim 1. Therefore, the combination of SPAULDING and OKU fails to disclose all claimed features in claim 1.

In addition, claim 7 recites apparatus claiming “the three dimensional look-up table generating means generates the three-dimensional look-up table according to a model of the digital camera.” As reasoned above, neither SPAULDING nor OKU teaches or suggests above feature in claim 7.

In addition, claim 13 recites computer-readable recording medium, claiming “the procedure of generating the three-dimensional look-up table is the procedure of generating the three-dimensional look-up table for a model of the digital camera.” As reasoned above, neither SPAULDING nor OKU teaches or suggests above feature in claim 13.

It appears that an obviousness has been assumed merely on the assumption that the combination of the references includes all claimed elements. However, it is well established that even if the combination of the references teaches every element of the claimed invention, without some motivation to combine, a rejection based on a *prima facie* case of obviousness is improper. *See MPEP 2143.01*.

In this instance, the Office Action merely states that OKU’s teaching is advantageous “to perform the color correction in consideration of the color reproduction characteristics of the

image recording apparatus in order to record an image with good color reproduction.” However, there’s no explicit nor implicit statement in OKU that 3DLUT is a model of the digital camera. OKU alone or in combination of OKU and SPAULDING would satisfy all features in claims 1, 7, and 13. It appears that the only motivation to combine has been gleaned from the teachings of the present application. This constitutes impermissible hindsight, however. *See MPEP 2141*. Simply put, there is no showing in the Office Action that the conclusion of obviousness was reached on the basis of facts gleaned from the prior art, and not from the claimed invention. *See MPEP 2143*.

For the reasons above, the applicants respectfully request that the rejection of claims 1, 7, and 13 based on SPAULDING in view of OKU, be withdrawn.

CONCLUSION

All rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Michael R. Cammarata (Reg. No. 39,491), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 28, 2006

Respectfully submitted,

By 

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